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# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-204524, B-204524.2, DATE: October 27, 1981  
B-204524.3  
MATTER OF: Green Fuel Oil, Inc.; Roarda, Inc.;  
Atlantic Petroleum Corp.

## DIGEST:

Protests will not be considered because material issues involved are pending before court of competent jurisdiction, and court has not expressed interest in GAO decision.

Green Fuel Oil, Inc., Roarda, Inc., and Atlantic Petroleum Corp. have protested against the award of any contract by the Government of the District of Columbia under invitation for bids (IFB) No. 0064-AA-91-0-2-PF. The solicitation is for the supply of all petroleum products required by the District for a twelve month period.

Roarda contends that the responsibility criteria set forth in the IFB, as well as the clause which permits bidders to restrict their bids to consideration in the aggregate, are unduly restrictive of competition. Roarda also argues that the equitable price adjustment clause in the IFB is unlawful. Green Fuel Oil makes the same allegations as Roarda and also contends that the removal of all petroleum product requirements from the "sheltered market program" violates the District of Columbia Minority Contracting Act.

Atlantic Petroleum's allegations include those raised by Roarda and Green Fuel Oil, plus several others. Atlantic's submission indicates that it has also sought judicial relief in the Superior Court of the District of Columbia (Atlantic Petroleum Corp. v. District of Columbia, Civil Action No. 12534-81). The material issues raised in that litigation are the same as those raised in the protest before this Office.

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It is the policy of this Office not to decide protests where the material issues are before a court of competent jurisdiction unless the court requests, expects or otherwise expresses an interest in our decision. 4 C.F.R. § 21.10 (1981). Usually, the expectation or expression of interest results from the granting of a plaintiff's request for injunctive relief pending our decision or from some other affirmative indication that the court is interested in our views. Allison Warehouse & Transfer Company, Inc., B-197396, January 21, 1980, 80-1 CPD 62. In this case, the court has expressed no interest in having our Office review the matter, despite the fact that we held the record open for several weeks in order to give Atlantic an opportunity to seek such an expression from the court. Under these circumstances we will not consider the protests unless the court later requests our decision. See E. A. Ellis Contractors, Inc., B-197445, March 11, 1980, 80-1 CPD 189.

The protests are dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel